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VIRGINIA LAW REGISTER.

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In the February number (p. 722) we commented on a recent Illinois case involving the right of the tenant of a base fee to commit waste. Through inadvertence the citation was omitted. The case is *Gannon v. Peterson*, 62 N. E. 210 (Dec. 18, 1901).

As announced in the initial number of its fourth volume, our enterprising and ever-welcome contemporary, the *Virginia Supreme Court Reporter*, has become the official organ of the Executive Committee of the Virginia State Bar Association.

In making official publication of the arrangement, Mr. Massie, Secretary of the Association, announces a review, by himself, of "the history of this Association in a series of articles, to chronicle the work done by it and other bar associations, and to add from time to time such notes of current events as may be of interest to members of the Association and the profession at large."

Mr. Massie's articles and notes should prove an attractive feature of the publication, and we trust will largely enhance its value to subscribers. We trust also that the prestige of being the official organ of so distinguished a body may redound to the advancement of the material interests of the *Reporter*.

In *Smith v. Speed*, 66 Pac. 511, the Supreme Court of Oklahoma disposed of certain acts of the legislature of that territory designed to interpose a jury between the court and a party in contempt of its process, in the same effectual and satisfactory manner as did the Supreme Court of Appeals of Virginia in *Carter v. Commonwealth*, 96 Va. 791, with regard to similar legislation of the General Assembly of Virginia. Indeed, the latter case may be pronounced to be the text of the former, so largely does it seem to have figured in the deliberations of the Oklahoma court. The opinion of McAtee, J., is a vigorous vindication of the inherent right of the judiciary, as one of the three great depart-

ments of government, to enforce obedience to its mandates, without any power whatever in the legislature substantially to abridge it.

The Oklahoma act resembled in many respects that of the General Assembly of Virginia, approved February 26, 1898, but contained an additional abomination in the shape of a provision that "the party so charged shall, upon demand, have a change of judge or venue, and a trial by jury." The court says that if the legislature can make this provision "there is no reason why an act may not also be passed, and held to be just as effective, which would undertake to submit the contempt proceedings to the jurisdiction of a justice of the peace, either in the county where the violation of the court's order occurred or in some other county; and in that event the immense and beneficent jurisdiction in chancery, the result of the labors of Nottingham, Hardwicke, Thurlow, and Eldon . . . and of the equally eminent judges of our own Supreme Court, from Chief Justice Marshall to our own day, who have joined in its confirmation, would be subjected to the supremacy of justices of the peace, with their juries. No reputable lawyer would consent to occupy the bench in such a condition of things."

And the following from the opinion of McLean, J., in *Respublica v. Oswald*, 1 Dall. 329, is quoted with approval:

"Not only my brethren and myself, but likewise all the judges of England, think that without this power no court could possibly exist—nay, that no contempt could be committed against us, we should be so truly contemptible. The law upon this subject is of immemorial antiquity, and there is not any period when it can be said to have ceased or discontinued."

WE devote much of our space this month to the memory of the late Judge William J. Robertson. Ever since his death, nearly four years ago, we have felt that the unique position which Judge Robertson occupied at the Virginia bar demanded that some suitable memorial of him should appear in these pages. During a full quarter of a century, he was by common consent the leader of the bar in this State. The absence of such a memorial may have been justly the subject of criticism. In explanation of our apparent delinquency, and of the circumstance that after a delay of four years, we should reproduce memorial addresses that have appeared in print elsewhere, it will not be out of place to say—and the statement does not in anywise reflect upon Judge Robertson's memory—that we have, during this time, made numerous efforts to secure the preparation of an appropriate

sketch for publication in the REGISTER. But those to whom application was made, felt obliged to decline, either on the ground that they could not do justice to the subject in the time at their disposal, or else that Mr. Blackford's paper, read before the Virginia State Bar Association, shortly after Judge Robertson's death, was so full and so accurate a portrayal, that nothing further was left to be said.

No apology is needed, therefore, for reproducing the paper in question, notwithstanding the wide circulation it has already had through its publication in the Reports of the State Bar Association.

The address of Judge Lewis has not heretofore been published, and that of Mr. Southall appeared, we believe, only in the local press of Charlottesville. Both of these appear in the present number.

But too wide publicity cannot be given to the story of the life and labors of men like Judge Robertson. Such lives stand out as beacon lights in the night of discouragement and difficulty surrounding the young practitioner. They teach him that whatever his intellect, incessant toil is the price of success at the bar; and that high character, sustained effort, fidelity to duty, a delicate regard for others' rights, a rigid adherence to the ethics of the profession, still have their sure rewards—rewards measured not only in pecuniary emolument, but in the affection and veneration of the bar and people.

Judge Robertson's judicial experience was too brief to add much lustre to his reputation. His greatest achievements were as an advocate before the courts during the thirty and more years after his retirement from the bench. Unfortunately, the fame of the mere advocate is fleeting. His arguments may move unwilling courts, and form the warp and woof of imperishable opinions, yet the labors of counsel—the real architects of the opinion—receive but passing interest, and are forgotten by the general public almost as soon as their echoes cease in the court room. The lawyer whose genius has dominated the courts for a generation, and left an indelible impression upon the jurisprudence of his country, is too often a stranger to the generation that succeeds him. His briefs, which have cost him possibly months of toil, and which contain, in the language of Mr. Bishop, "the illumined jewels and star-gems which were shed with his brain-sweat and brain-blood," live only as the unacknowledged source of appellate court opinions, or help to fill the dusty files in the clerk's office.

If the republication of these tributes to Judge Robertson shall refresh the memory of him in the minds of the lawyers of Virginia, and thus extend the twilight that lingers after the day is done—brief enough for even the most distinguished in our profession—the editors of the REGISTER will feel well repaid for the slight but willing service they have rendered in contributing to that end.